



Plan EJ 2014

Supplement



Advancing Environmental Justice Through Title VI Draft



Plan EJ 2014 is EPA's roadmap for integrating environmental justice into its programs and policies.

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**ADVANCING ENVIRONMENTAL JUSTICE
THROUGH
Title VI of the Civil Rights Act of 1964**

Draft Implementation Plan

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Led by
Office of Civil Rights

U.S. Environmental Protection Agency
Washington, D.C. 20460

For more information on Plan EJ 2014, visit the US EPA's Office of Environmental Justice website at: <http://www.epa.gov/environmentaljustice/plan-ej/>.

For more information on Civil Rights, visit EPA's Office of Civil Rights website at: www.epa.gov/ocr

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1.0 INTRODUCTION

The U.S. Environmental Protection Agency (EPA) has made improving its civil rights program a priority and recognizes that its enforcement of Title VI of the Civil Rights Act of 1964 (Title VI), as amended, and other nondiscrimination statutes are important tools in the Agency's efforts to address discrimination and advance environmental justice.

EPA implements Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, section 13 of the Federal Water Pollution Control Act Amendments of 1972, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, which prohibit discrimination based on race, color, national origin, disability, sex, and age. EPA's regulation at 40 C.F.R. Part 7, entitled "*Nondiscrimination in Programs or Activities Receiving Federal Assistance from EPA*," includes general and specific prohibitions against intentional and unintentional (*i.e.*, disparate effects) discrimination by EPA's assistance recipients on the basis of race, color, national origin, sex, or handicap. Every EPA grant recipient, including each state environmental agency receiving financial assistance from EPA, is subject to the terms of 40 C.F.R. Part 7.

For example, as part of its obligations under Title VI, recipients of EPA financial assistance must provide meaningful access to Limited English Proficient (LEP) persons. To help recipients of EPA financial assistance satisfy its Title VI obligations, EPA issued guidance entitled, "*Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*" (LEP Recipient Guidance). EPA has also published "*Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs*" (Public Involvement Guidance).

This implementation plan sets forth goals, strategies, and activities that will assist in building a robust Title VI civil rights program. This implementation plan was developed by the Office of Civil Rights (OCR), in consultation with the Office of Environmental Justice and the Office of General Counsel. This plan focuses on Title VI and its integration with Plan EJ 2014.

1.1 Goals

Because the EPA recognizes that it must strengthen the enforcement and compliance of Title VI, it has identified two goals. EPA's first goal is to clearly identify and outline for recipients their Title VI responsibilities and to place a greater focus on prevention of discrimination and compliance with Title VI. For example, EPA will communicate with recipients more on their obligations, including developing "program" guidance, which will be designed to assist states in carrying out delegated authorities under environmental statutes (e.g., monitoring or permitting guidance).

EPA's second goal is to promote meaningful dialogue and seek input to improve efficiencies in Title VI compliance by engaging state associations, including participation in meetings on the National Environmental Performance Partnership System (NEPPS) program, and by engaging individual states on performance partnership agreements and performance partnership grants.

1.2 Organizational Functions

PRE-AWARD AND POST-AWARD COMPLIANCE MONITORING

In addition to resolving complaints, the EPA conducts pre-award reviews of grant applicants through the Pre-award Compliance Review Report form (EPA Form 4700-4). Further, EPA may initiate post-award compliance reviews of recipients regarding compliance with Title VI. Where EPA finds a cause for concern or non-compliance, it seeks to enter into agreements with recipients to achieve compliance or bring recipients back into compliance. EPA monitors compliance with these agreements to verify that the commitments made by the EPA recipients are carried out. All of these steps are designed to achieve consistent compliance with Title VI and other civil rights laws by EPA recipients.

TECHNICAL ASSISTANCE AND OUTREACH

Technical assistance to recipients is an important component of overall compliance with federal civil rights requirements. Technical assistance is provided through a variety of methods, including on-site consultations, conferences, training via the web or on-site, community meetings and publication or dissemination of materials.

CASE MANAGEMENT AND RESOLUTION

One of the most important ways the EPA carries out its civil rights responsibilities is by investigating and resolving complaints. Individuals who believe that they have been discriminated against in violation of the civil rights laws may file a complaint with OCR. In processing complaints, the primary objectives are to promptly investigate the allegations of discrimination, to accurately determine whether the civil rights laws have been violated, and to remedy any identified violations. Many of the issues raised in complaints filed with EPA are very complex in nature. EPA, in consultation with the Department of Justice (DOJ), continues to work on improving its complaint processing.

2.0 IMPLEMENTATION

2.1 Strategies

EPA has four major strategies for *Advancing Environmental Justice through Title VI of the Civil Rights Act*:

- Establish a robust Title VI pre-award and post-award compliance program.
- Strengthen Title VI in EPA's National Program Management guidance, performance partnership agreements and performance partnership grants.
- Partner with other federal agencies to improve and strengthen compliance with Title VI.
- Advance EJ goals through Limited English Proficiency initiatives.

2.2 Activities

The following activities are intended to carry out the strategies identified for this implementation plan.

Strategy 1: Establish a robust Title VI Pre-Award and Post-Award Compliance Program.

EPA will strengthen Title VI by building a robust pre-award and post-award compliance program. EPA will also improve oversight including data collection, compliance, monitoring, and reporting. Grant recipients already agree under existing grant conditions to comply with all federal anti-discrimination laws. For example, EPA's Form 4700-4 implements specific regulatory requirements for Title VI compliance, such as, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

Activity 1.1: Reform pre-award compliance program to further ensure compliance with Title VI by revising EPA Form 4700-4 and developing Title VI terms and conditions.

Activity 1.2: Improve post-award compliance to further ensure compliance with Title VI by seeking stakeholder input and developing options for a post-award compliance program.

Activity 1.3: Develop Title VI technical assistance for EPA federal financial assistance recipients.

Activity 1.4: In consultation with the US Department of Justice, EPA will re-evaluate its Title VI regulations and make any necessary changes.

Activity 1.5: EPA will review its programmatic standard operating procedures and templates for processing civil rights complaints and conducting compliance reviews.

Strategy 2: Strengthen Title VI in EPA's National Program Manager guidance, performance partnership agreements and performance partnership grants.

EPA will include Title VI topics for discussions with state associations and with individual states on performance partnership agreements and performance partnership grants. EPA will ensure that its National Program Manager (NPM) guidance and annual commitments include and address Title VI compliance initiatives. For example, Title VI compliance reporting would be a part of Agency's annual mid-year and end-of-year review processes. EPA's internal processes and procedures will be updated, as appropriate, to reflect these changes.

Activity 2.1: Coordinate with EPA offices to determine how Title VI can be incorporated into EPA's National Program Manager guidance.

Activity 2.2: Coordinate with EPA offices to determine how Title VI can be incorporated into EPA's performance partnership agreements and performance partnership grants.

Strategy 3: Partner with other Federal Agencies to strengthen compliance with Title VI.

The Federal Interagency Working Group on Environmental Justice (EJ IWG) was established in 1994 under Executive Order (EO) 12898. The role of the EJ IWG is to guide, support and enhance federal environmental justice and community-based activities. The EJ IWG is comprised of 16 federal agencies and several White House offices. On August 4, 2011, heads of 16 federal agencies took an important step to support environmental justice by signing the “Memorandum of Understanding on Environmental Justice and Executive Order 12898 (EJ MOU)”. This EJ MOU includes focusing on, when appropriate, the implementation of Title VI.

Activity 3.1: Participate and coordinate with the Interagency Workgroup (IWG) and the EJ IWG Committee for Title VI of the Civil Rights Act.

Activity 3.2: Collaborate with DOJ to identify best practices and provide technical assistance.

Strategy 4: Advance EJ Goals through Limited Proficiency Initiatives

Individuals, who have a limited ability to read, write, speak, or understand English are Limited English Proficient or "LEP."¹ Language for LEP individuals can be a barrier to accessing important benefits and services, understanding and exercising important rights, complying with applicable responsibilities, and understanding other information provided by the EPA and recipient programs and activities. Accordingly, EPA is taking steps to make its federally funded and federally conducted activities meaningfully accessible to LEP individuals in accordance with Executive Order 13166, entitled “Improving Access to Services for Persons with Limited English Proficiency.” For example, EPA recently issued an agency directive that requires each Assistant Administrator and Regional Administrator to review its programs and activities for LEP compliance and to make modifications, when necessary. EPA also is taking steps to assist recipients in understanding their LEP obligations by issuing the LEP Order 1000.32.

Activity 4.1: Implement EPA’s Limited English Proficiency Order.

Activity 4.2: Monitor the implementation of EPA’s LEP Review Plans and revise as appropriate.

¹ Definition as defined by Limited English Proficiency (LEP), A Federal Interagency Website: www.lep.gov .

3.0 DELIVERABLES

Strategy 1: Establish a robust Title VI Pre-Award and Post-Award Compliance Program.

ACTIVITY	DELIVERABLES	MILESTONES
Activity 1.1: Reform pre-award compliance program to further ensure compliance with Title VI.	<ul style="list-style-type: none"> Develop Title VI Terms and Conditions. Revise EPA Form 4700-4 and submit to the Office of Management and Budget. Develop grant monitoring strategy. 	<ul style="list-style-type: none"> May 2012 June 2012 August 2012
Activity 1.2: Improve post-award compliance monitoring program to further ensure compliance with Title VI.	<ul style="list-style-type: none"> Develop options for a Title VI post-award compliance program. Seek stakeholder input. Launch the compliance pilot program 	<ul style="list-style-type: none"> June 2012 Ongoing September 2012
Activity 1.3: Develop Title VI technical assistance for EPA federal financial assistance recipients.	<ul style="list-style-type: none"> Develop Title VI compliance tool-kit for EPA federal financial assistance recipients. Develop a civil rights module in EPA's post award advanced grant audits. Conduct quarterly training sessions for recipients. 	<ul style="list-style-type: none"> September 2012 December 2012 2013
Activity 1.4: In consultation with DOJ, EPA will re-evaluate its Title VI regulations and make any necessary changes.	<ul style="list-style-type: none"> Complete evaluation of EPA Title VI implementing regulations for potential revision. Issue notice of proposed rulemaking in Federal Register as a rulemaking for public comment. Engage interested stakeholders, as appropriate. 	<ul style="list-style-type: none"> June 2012 Fall 2012 Ongoing
Activity 1.5: EPA will review its programmatic standard operating procedures and templates for processing civil rights complaints and conducting compliance reviews.	<ul style="list-style-type: none"> Revise standard operating procedures. Develop a Title VI Complaints and Compliance Review Manual. 	<ul style="list-style-type: none"> September 2012 March 2013

Strategy 2: Strengthen Title VI EPA's National Program Manager (NPM) guidance, performance partnership agreements and performance partnership grants.

ACTIVITY	DELIVERABLES	MILESTONES
Activity 2.1: Coordinate with EPA offices to determine how Title VI can be incorporated into EPA's National Program Management guidance.	<ul style="list-style-type: none"> Coordinate with Office of Chief Financial Officer for integrating civil rights into the cross cutting strategies of EPA's strategic plan. Develop Title VI compliance language to be included in EPA's NPM guidance for FY 2013. 	<ul style="list-style-type: none"> Ongoing Completed
Activity 2.2: Coordinate with EPA offices to determine how Title VI can be incorporated into performance partnership agreements and performance partnership grants.	<ul style="list-style-type: none"> Develop Title VI compliance language to be included in EPA's performance partnership agreements. Develop Title VI compliance language to be included in EPA's performance partnership grants. 	<ul style="list-style-type: none"> June 2012 June 2012

Strategy 3: Partner with other Federal Agencies to strengthen the use of Title VI.

ACTIVITY	DELIVERABLES	MILESTONES
Activity 3.1: Participate and coordinate with the IWG and the EJ IWG subcommittee for Title VI of the Civil Rights Act.	<ul style="list-style-type: none"> Participate and attend scheduled meetings. Along with other agencies, review and assess Title VI guidance and analysis of Title VI Complaints. 	<ul style="list-style-type: none"> Ongoing Ongoing
Activity 3.2: Collaborate with DOJ to identify best practices and to provide technical assistance	<ul style="list-style-type: none"> Work with DOJ and other agencies to promote best practices and enhance effective compliance with Title VI and actions to address non-compliance. 	<ul style="list-style-type: none"> Ongoing

Strategy 4: Advance EJ goals through Limited English Proficiency initiatives

ACTIVITY	DELIVERABLES ²	MILESTONES
Activity 4.1: Implement of EPA's Limited English Proficiency Order.	<ul style="list-style-type: none"> Create and issue LEP Order 1000.32. Collect EPA offices LEP Review Plans. Finalize EPA's LEP Implementation Plan to ensure compliance with EO 13166. 	<ul style="list-style-type: none"> Completed Completed September 2012
Activity 4.2: Monitor the implementation of EPA's LEP Review Plans and revise as appropriate.	<ul style="list-style-type: none"> Monitor EPA offices implementation of LEP Review Plans and produce a report. 	<ul style="list-style-type: none"> August 2012

² "Deliverables" are a schedule of actions, products or results that OCR intends to accomplish by a specified date.

4.0 Reports

OCR will report annually on progress in implementing the strategies outlined in this implementation plan, and will update as necessary, the activities and deliverables outlined. For information, please contact: Rafael DeLeon, 202-564-4899, deleon.rafael@epa.gov or Helena Wooden-Aguilar, 202-564-0792 wooden-aguilar.helena@epa.gov

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